

REMARKS

Claims 1-9 and 11-22 are pending in the application. No claims have been amended, cancelled or added. In view of the following Remarks, allowance of the pending claims is requested.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1, 4-9 and 11-22 under 35 U.S.C. § 103 as allegedly being unpatentable over U.S. Patent No. 5,550,863 to Yurt *et al.* ("Yurt") in view of U.S. Patent No. 6,442,755 to Lemmons *et al.* ("Lemmons"). The Examiner has rejected claims 2-3 under 35 U.S.C. § 103 as allegedly being unpatentable over Yurt in view of Lemmons and further in view of U.S. Patent No. 6,536,041 to Knudson *et al.* ("Knudson"). Applicants traverse this rejection because the references relied upon by the Examiner, either alone or in combination with one another, do not teach or suggest all the features of the claimed invention.

The Examiner acknowledges that Yurt does not teach or suggest the feature of: providing the interactive application comprised of a set of application components, the set of application components including an executable computer code component and a data component; and the converting and delivering of the interactive application as recited in, for example, claim 1. The Examiner apparently relies on Lemmons for these aspects of the claimed invention. Specifically, the Examiner states that:

"delivering an interactive application to a plurality of target platforms is read on delivering program guide data to a plurality of television distribution facilities" (Office Action, page 6, lines 13-15)

and

"the set of application components including an executable computer code component and a data component' is read on the program guide data comprises a set of application components including computer executable code such as computer software, HTML, DHTML, or HML code and program listings data such [as] program times, channels, titles, etc." (Office Action, page 6, lines 16-20).

However, this reasoning is flawed for at least the reasons that 1) an *interactive application* as recited in claim 1 is not taught or suggested by *program guide data* as taught by Lemmons, and 2) an *executable computer code component* as recited in claim 1 is not taught or suggested by *HTML, DHTML, or HML* as taught by Lemmons.

Lemmons neither teaches or suggests delivering an interactive application that includes an executable computer code component. One of ordinary skill in the art would not interpret HTML, DHTML, or HML as “executable code.” Rather, these are markup languages used in markup language documents that are delivered to the target platform and interpreted by an application program pre-existing at and operating on the target platform. As fairly interpreted, program guide data in markup language documents is more appropriately deemed “data” and not “executable code.”

In fact, Lemmons supports Applicants’ interpretation. For example, Lemmons teaches:

With current interactive programming guides, user screens ... and program guide functionality are fixed. It is generally not possible to change user screens or program guide functionality **without downloading an entire new program guide application.**

Accordingly, it would be desirable if a markup language could be used to provide or download display characteristics for users screens and program guide functionality as plug-ins anytime, **without modifying the code of the application.**

Lemmons, column 1, lines 28-37. Lemmons further teaches:

The television distribution facility distributes the information (and television programming signals) to user television equipment **on which an interactive television program guide is implemented.**

Lemmons, column 1, lines 60-63.

The use of a markup language provides an interactive television program guide in which display screens may be modified by downloading markup language documents ... **without modifying the code of the application.**

Lemmons, column 2, lines 31-35.

These passages demonstrate that Lemmons does not teach delivering an interactive application including an executable computer code component to a target

platform; Lemmons merely teaches providing data to an interactive application pre-existing at the user equipment. In fact, Lemmons **clearly teaches away** from the interpretation provided by the Examiner in that the system of Lemmons **does not download an interactive application** to the user equipment.

For at least these reasons, the combination of Yurt and Lemmons as relied upon by the Examiner does not teach or suggest all the features of claim 1. Furthermore, Knudson does not make up for the deficiencies of this combination. Hence, the rejection based on the references relied upon by the Examiner is improper and must be withdrawn.

Claims 2-8, 11, 12, and 14-17 depend from and add features to claim 1. Hence, the rejections of these claims are improper and must be withdrawn for at least the reasons set forth above with regard to claim 1.

Claim 9 recites features similar to those recited in claim 1. Hence, the rejection of claim 9 is likewise improper and must be withdrawn. Claims 13 and 18-22 depend from and add features to claim 9. Hence, the rejections of these claims are also improper and must be withdrawn.

Applicants also traverse the rejection because one of ordinary skill in the art would not be motivated to combine Yurt with Lemmons in the manner set forth by the Examiner. Yurt teaches a system for distributing video and/or audio information that employs digital signal processing to achieve high rates of data compressions. Yurt is silent with regard to delivering interactive applications to target platforms operating on different broadcast networks. There is simply no reason whatsoever why one of ordinary skill in the art would be motivated to combine the teachings of Yurt with those of Lemmons. The Examiner is clearly applying hindsight to reconstruct the features of the claimed invention from among otherwise unrelated references. Such hindsight reconstruction is improper. For at least this additional reason, the rejection of the claims based on the combination of references relied upon by the Examiner is improper and must be withdrawn.

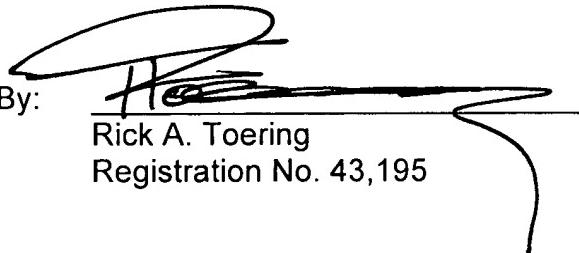
CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Date: March 19, 2007

Respectfully submitted,

By: 
Rick A. Toering
Registration No. 43,195

Customer No. 00909

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, Virginia 22102
Main: 703-770-7900
Direct Dial: 703-770-7620
Fax: 703-770-7901